

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 JANE DOE #1; JANE DOE #2; and JANE DOE)
5 #3, on behalf of herself and as next)
6 friend of MINOR DOE #1, MINOR DOE #2,)
7 and MINOR DOE #3,)
8 Plaintiffs,)

Case No.
3:15-cv-68

9 vs.)

10 CORRECTIONS CORPORATION OF AMERICA;)
11 ARVIL "BUTCH" CHAPMAN, in his)
12 individual capacity and in his)
13 official capacity as warden of the)
14 South Central Correctional Facility;)
15 DANIEL SULLIVAN, in his individual)
16 capacity and in his official capacity)
17 as chief of security of the South)
18 Central Correctional Facility; KELLY)
19 J. GARSKA, in her individual and)
20 official capacities; MIA W. QUALLS, in)
21 her individual and official capacities;)
22 FELICIA D. ROACH, in her individual and)
23 official capacities; MERCEDES JONES, in)
24 her individual and official capacities;)
25 DEBRA ROBERTS CORNWALL, in her)
individual and official capacities;)
and TRINITY SERVICES GROUP, INC.,)
Defendants.)

 COPY

Deposition of:
CHARLES FISHER
June 23, 2016
Taken on behalf of the Plaintiffs

BRIGGS & ASSOCIATES COURT REPORTING
LINDA WORLEY
222 Second Avenue North
Suite 360M
Nashville, Tennessee 37201
(615) 440-7405

1 the private prisons?

2 A. No. No. That -- because they figured out
3 that if they signed the contract with the Department of
4 Corrections, then the Department of Corrections would have
5 a contract monitor who would be the one to make sure they
6 were following the rules.

7 Q. Okay. And then you went from assistant
8 director to senior detention specialist. What is a senior
9 detention specialist?

10 A. Well, in 1999 we got a new director, and he
11 wanted to make a change. So he called me in and said,
12 look --

13 And I was living in Covington and driving up
14 there every week to Nashville, stayed in a motel, stuff
15 like that. And, just to be honest with you, he had gotten
16 some pressure because I was getting too thorough in my
17 inspections, and they wanted somebody else in there. I
18 made some people mad because of I said they were doing
19 stuff they shouldn't do, and one of them was the mayor of
20 Memphis, Jim Rowd at the time, and he wanted to fire me.

21 So instead of that, Roy Nixon, who was the
22 new director, asked me to take a -- I guess you would say
23 a demotion so he could put somebody else in there and take
24 the heat off. That way, I didn't have to travel to
25 Nashville anymore. And he also fixed it so I did not have

1 Q. -- do you mean the TDOC policies?

2 A. Yes. The TDOC policies, which CCA follows.

3 Q. Okay.

4 A. what are required contractually to follow,
5 yes.

6 Q. And what about the CCA policies? That would
7 be the 920 and 91. Are those, to your knowledge, reviewed
8 by TDOC?

9 A. They should be. That -- not to my knowledge,
10 but I know they would be reviewed by ACA because ACA will
11 look at every policy, post order, and everything that you
12 have in making their determination as to whether or not
13 you would be certified.

14 Q. Okay. And do you have any information
15 specifically that the ACA reviewed those particular CCA
16 policies in this case?

17 A. Only that I know that they reviewed all of
18 them when they go to a place.

19 Q. Okay.

20 A. I know how the process works.

21 Q. But do you have any information that,
22 specifically, that these policies are reviewed by the ACA?

23 A. Yes. Because they certify the place. That
24 indicates to me they have been reviewed, because they
25 review everything, again. I mean, you can say that -- do

1 security about. Heightened sense of observation, if you
2 will. But she did go ahead and let them visit, but she
3 made a mental note, what they refer to in here as their
4 radar list, which I think is kind of -- I don't -- the
5 term "radar list." But, anyway, that's -- so she
6 delineates pretty well what her concerns were and how she
7 came to the conclusion that there was reasonable
8 suspicion, in her mind, that this was worthy of enhanced
9 scrutiny.

10 Q. Okay. And when you're talking about bringing
11 in a pad, you're -- I want to clarify about when you just
12 gave your opinion about bringing in a pad of reasonable
13 suspicion, in and of itself --

14 A. Yes.

15 Q. -- that someone's bringing in contraband, you
16 mean to include both the spare pad, as we'll call it, the
17 replacement pad, as well as the pad that the individual is
18 wearing?

19 A. The pad that the individual is wearing I
20 would simply make her change out -- make a female change
21 out and use one of our pads just as a reasonable
22 precaution for -- you know, just in case it does have
23 contraband in it. I mean, it's really not a big deal, but
24 it's -- because women do have periods, women do wear
25 feminine hygiene products, pads. And but just to be on

1 the safe side, you didn't get it from us, let's change it
2 out. It's possible that it could have contraband. Not
3 saying it does, but let's change it out. Just -- but if
4 someone's bringing in a spare one, that is clearly not
5 allowed for not -- they're not allowed to do that.

6 So, in summary, I would say that while
7 wearing a pad might not be considered contraband in and of
8 itself, because that's a natural thing that people may
9 wear, there is certainly no harm in asking them -- erring
10 on the side of caution and asking them to replace the pad
11 they're wearing with one that you provide.

12 Q. Okay.

13 A. But bringing in an extra pad, that's a whole
14 different ball game, in my opinion.

15 Q. Okay. So I just want to be clear.

16 A. Okay.

17 Q. So, in your opinion, is wearing a pad into
18 the facility without bringing in a replacement pad, just
19 wearing a pad into the facility, does that constitute
20 reasonable suspicion that a person is bringing in
21 contraband?

22 A. Not -- I wouldn't say the one that they're
23 wearing. But, then again, I would ask them to change it
24 out.

25 Q. Okay. So you don't think that that alone is

1 Q. Could you have the visitor hand the discarded
2 pad to an officer; here, here it is?

3 A. No, you wouldn't want to do that. I mean,
4 the thing is to get rid of the pad, yes.

5 Q. So would that be an alternative, that the
6 person goes in and, when they change their pad, they hand
7 the soiled pad to the officer?

8 A. It could be an alternative, but that's not
9 what I would do.

10 Q. Okay. And why not?

11 A. Because you want to make sure that the pad is
12 changed out. And the only way to make sure that the pad
13 is changed out and to be absolutely sure --

14 who knows? She could have two pads on under
15 there and throws one away, keeps the other one. So the
16 only way to know for certain is to have them throw away
17 the pad and put on yours.

18 Q. Okay. And how do you know that she doesn't
19 have on two pads or that she hasn't just thrown away the
20 CCA pad if the person isn't observing them?

21 A. Well, you observe the pad that's thrown away.
22 I mean, you don't check it. Just like at the airport,
23 they see me throw away my toothpaste, but they don't
24 search the toothpaste.

25 Q. Okay. So if the important thing is seeing

1 visitation receive additional training from the senior
2 correction officers and other regularly assigned
3 visitation correctional officers on visitation post orders
4 and procedures." What is your basis for that opinion?

5 A. That's what I -- specifically, Gonzalez and
6 Garska, when they indicated -- I think one of them --
7 could have been Garska, could have been Gonzalez --
8 specifically saw that a Ms. Layne, who had been there for
9 a while and was no longer doing visitation, but she looked
10 at the post orders and she found -- she got input from
11 Ms. Layne about how all this stuff is supposed to go. So
12 that's...

13 Q. But that's in that sentence, you're not
14 referring to any formal training other than the on-the-job
15 training you've just described?

16 A. Correct.

17 Q. Okay. Skipping down to the paragraph that
18 starts with "again." "Again, it is clear from the
19 interrogatories, depositions, written policies and the
20 sworn testimony of Ms. Cornwall, the documentation, and
21 the custom and practice of local law enforcement in
22 unusual situations involving visitors and staff and the
23 thorough documentation that CCA has concerning unusual
24 incidents involving visitors and staff that the process of
25 changing feminine products is not and should not be

1 considered a strip search."

2 A. Correct.

3 Q. Okay. And that is your opinion, based on
4 everything that you've read?

5 A. That's correct.

6 Q. And your opinion is that if they looked, it
7 would be a strip search?

8 A. That's correct.

9 Q. Okay. And in your review of the
10 documentation and testimony you've been provided in this
11 case, did it indicate to you that there was any specific
12 pre-service or in-service trainings on how to deal with
13 visitors on their periods?

14 A. No. I'm sure there is not. Because, again,
15 it's a specialized class -- excuse me. It's a specialized
16 post, which not everybody is going to be assigned -- I
17 hate to end with a preposition. That they're going to be
18 assigned to it. Only a few are the ones who get trained.

19 Q. Okay. And is your understanding that there
20 are specific blocks of training for visitation, or there
21 can be?

22 A. There would be a general block in the basic
23 training that everybody has, just so they'll kind of have
24 an understanding. But as far as the nitty gritty nuts and
25 bolts, that would be done by the senior officer to people

1 who are assigned. And then the person who is the senior
2 officer would get their information from the other senior
3 officer, or possibly the warden or somebody else if that
4 person is not available to say, well, what does this mean,
5 that type of thing.

6 Q. Okay. And then in the next paragraph you
7 say, "If the CCA facility is acting as a state prison,
8 which is the case here, their training is monitored and
9 approved by the Tennessee Department of Corrections." Is
10 that correct?

11 A. That's correct, yes.

12 Q. And do you know if the TDOC monitors
13 specifically have gone through the changing of a pad or
14 how to deal with women on their periods at this facility?

15 A. Not to my knowledge. I've not seen any
16 information to that effect.

17 Q. So do you know if TDOC knew at all what the
18 process was for having a female visitor change their
19 feminine hygiene product at South Central?

20 A. I don't know what they knew. That's correct.

21 Q. Or if they knew anything at all?

22 A. Or if they knew anything at all. I just
23 don't know.

24 Q. Okay. In all your years as a trainer for TCI
25 and the various other things that you've done, you've

1 A. I do. If they're not visiting and they are
2 watching staff, yes, then to me, that's going to hit my
3 senses as, why are they not speaking to each other? Why
4 are they watching me? Are they trying to figure out
5 patterns? Are they trying to look for some sort of
6 opening, some sort of opportunity to do something that
7 they shouldn't be doing? They should not be paying
8 attention to me at all. I mean, I'm going to walk around
9 and I'm going to be at my post, but for them to be looking
10 at me the entire time, yeah. And I'm the authority.
11 Yeah, to me, that's suspicious.

12 Q. Okay. And is that suspicious activity,
13 focusing on the staff, would that also be the same as
14 reasonable suspicion?

15 A. Could be, yes. It could be. Now, they're
16 already in there and they've already been through
17 checkpoints, but that doesn't mean that they are
18 absolutely clean, as I pointed out earlier. There are
19 still ways that people can bring in contraband even after
20 undergoing a frisk search, the metal detectors, the scans,
21 changing out the pads, the whole nine yards. For all we
22 know, they could have something up their nose or around
23 their ear or some other body cavity that was not searched.
24 So, yes. Now, is it going to cause me to go search them
25 again? No. But I am going to watch them closer.

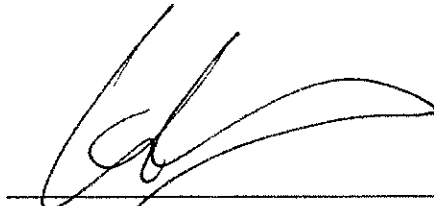
1 STATE OF TENNESSEE)
2 COUNTY OF WILLIAMSON)

3 I, LINDA WORLEY, LCR, Licensed
4 Court Reporter in and for the State of Tennessee at large,

5 DO HEREBY CERTIFY that the
6 foregoing was taken at the place set forth in the caption
7 thereof; that the proceedings of said were
8 stenographically reported by me in shorthand; and that the
9 foregoing pages constitute a true and correct
10 transcription of said proceedings to the best of my
11 knowledge, skills and ability.

12 I DO FURTHER CERTIFY that I am not
13 related to nor an employee of counsel or any of the
14 parties to the action, nor am I in any way financially
15 interested in the outcome of this action.

16 IN WITNESS WHEREOF, I have
17 hereunto affixed my official signature and seal of office
18 July 15, 2016, at Brentwood, Tennessee.

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Linda Worley, LCR
LCR #124, Expires 6-30-18